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Attorneys for Defendants

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

| | | |
|--|---|---------------------|
| VICTOR VOLOVNIKOV, |) | No. C 07-3607 EDL |
| |) | |
| Plaintiffs |) | |
| |) | |
| v. |) | |
| |) | |
| Department of Homeland Security, |) | |
| MICHAEL CHERTOFF, Secretary; |) | ANSWER TO COMPLAINT |
| U.S. Citizenship and Immigration Services, |) | |
| EMILIO T. GONZALES, Director; U.S. |) | |
| Citizenship and Immigration Services, |) | |
| ROSEMARY MELVILLE, San Francisco |) | |
| District Director; United States Attorney |) | |
| General, PETER D. KEISLER;* ROBERT |) | |
| S. MUELLER, III, Director of the Federal |) | |
| Bureau of Investigation, |) | |
| |) | |
| Defendants. |) | |

The Defendants hereby submit their answer to Plaintiff's Petition for Hearing on Naturalization Application Pursuant to 8 U.S.C. Section 1447(b).

1. Paragraph One consists of Plaintiff's allegation regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,

*Pursuant to Fed. R. Civ. P. 25(d)(1), Peter D. Keisler is substituted for his predecessor, Alberto Gonzales, as the United States Attorney General.

ANSWER
 C 07-3607 EDL

1 the Defendants deny that this Court has jurisdiction under any of the provisions cited in
2 Paragraph One.

3 2. Defendants admit the allegations in Paragraph Two.

4 3. Defendants admit the allegations in Paragraph Three.

5 4. Defendants admit the allegations in Paragraph Four.

6 5. Defendants admit the allegations in Paragraph Five regarding the description of the
7 United States Attorney General. Defendants aver that Alberto Gonzales is no longer the United
8 States Attorney General.

9 6. Defendants deny the allegations in Paragraph Six.

10 7. Defendants deny the allegations in Paragraph Seven.

11 8. Paragraph Eight consists of Plaintiff's allegation regarding jurisdiction, to which no
12 responsive pleading is required. To the extent a response is required, Defendants deny the
13 allegations.

14 9. Defendants admit the allegations in Paragraph Nine.

15 10. Defendants admit that Plaintiff was interviewed on August 3, 2005.

16 11. Defendants admit that Plaintiff passed his English and History tests. Defendants deny
17 the remaining allegations in Paragraph Eleven.

18 12. Defendants admit the allegations in Paragraph Twelve.

19 13. Defendants admit that Plaintiff was interviewed almost two years ago; however,
20 Defendants deny the remaining allegations in this paragraph.

21 14. Paragraph Fourteen consists of Plaintiff's conclusions of law for which no answer
22 is required; however, to the extent that such allegations are deemed to require an answer, Defendants
23 deny the allegations contained in this paragraph.

24 15. Paragraph Fifteen consists of Plaintiff's conclusions of law for which no answer is
25 required.

26 The remaining paragraphs consist of Plaintiff's prayer for relief, to which no admission or
27 denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny the
28 allegations in these paragraphs.

FIRST AFFIRMATIVE DEFENSE

The Court lacks jurisdiction over the subject matter of this action.

SECOND AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against the Defendants upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

No acts or omissions by the United States or its employees were the proximate cause of any injury or damages to the Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

At all times alleged in the complaint, Defendants were acting with good faith, with justification, and pursuant to authority.

FIFTH AFFIRMATIVE DEFENSE

The Defendants are processing the application referred to in the Complaint to the extent possible at this time. Accordingly, no relief as prayed for is warranted.

WHEREFORE, Defendants pray for relief as follows:

That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's Petition with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Date: September 17, 2007

Respectfully submitted,

SCOTT N. SCHOOLS
United States Attorney

/s/
MELANIE L. PROCTOR
Assistant United States Attorney
Attorneys for Defendants